

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

RAYMOND H. MEHNER,)
BARBARA A. MEHNER, MARK A.)
MEHNER, ANDREA L. MEHNER,)
and ANTHONY Q. MEHNER,)

Plaintiffs,)

v.)

DEPARTMENT OF HOMELAND)
SECURITY,)

Defendants.)

4:10CV3009

**MEMORANDUM
AND ORDER**

This matter is before the court on its own motion. As set forth below, this entire matter is dismissed without prejudice.

Plaintiffs filed this action through counsel on January 20, 2010. (Filing No. [1](#)). Plaintiffs' counsel moved to withdraw from representation on June 25, 2010. (Filing No. [20](#).) Thereafter, the court granted counsel's motion and ordered Plaintiffs to either retain substitute counsel or file a statement informing the court of their intent to proceed without counsel. (Filing No. [21](#).)

On August 10, 2010, a Motion for Extension of Time was filed "by Andrea Mehner for Mark A. Mehner," purportedly on behalf of all Plaintiffs, seeking a 60-day extension of time to obtain substitute counsel. (Filing No. [25](#) at CM/ECF p. 2.) The only signature appearing on this pleading was that of "Andrea Mehner for Mark A. Mehner." The Magistrate Judge granted the Motion for Extension of Time. (Filing No. [27](#).) On October 11, 2010, Plaintiff Andrea Mehner sent a document entitled "Motion for Leave to Amend" by e-mail to the Magistrate Judge's chambers and by facsimile to the Clerk of the court. (Filing No. [28-1](#), Attach. 1.) This document was signed only by Andrea Mehner. The Magistrate Judge electronically

filed the document as evidence of Plaintiffs' intent to proceed without counsel. (Filing No. [29](#).) Subsequently, all named Defendants filed Motions to Dismiss (filing nos. [35](#), [38](#), [41](#), and [42](#)). Plaintiffs did not respond to Defendants' Motions in any way.

Given the background of this case, the court had serious doubts that any Plaintiff intended to proceed without counsel. (*See* Filing No. [46](#).) As such, on April 26, 2011, the court ordered each Plaintiff to file a signed notice of his or her intent to proceed pro se in this matter within 21 days. Plaintiffs were warned that failure to file notice would result in this matter being dismissed as to each Plaintiff who failed to comply with this court's order for failure to prosecute diligently. (*Id.*) No Plaintiff has provided notice of his or her intent to proceed or responded to the court's order in any way. As such,

IT IS THEREFORE ORDERED that:

1. This matter is dismissed without prejudice because Plaintiffs failed to prosecute this matter diligently and failed to comply with this court's order.
2. A separate judgment will be entered in accordance with this Memorandum and Order.
3. All pending motions are denied as moot.

DATED this 1st day of June, 2011.

BY THE COURT:

Richard G. Kopf

United States District Judge

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